

COMMISSION ON RACIAL AND ETHNIC FAIRNESS



2019 Annual Report to the
Supreme Court of Missouri
December 2019

Supreme Court of Missouri
Commission on Racial and Ethnic Fairness (CREF)

2019 Report to the Supreme Court of Missouri

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SUPREME COURT OF MISSOURI
COMMISSION ON RACIAL AND ETHNIC FAIRNESS
POST OFFICE BOX 104480
JEFFERSON CITY, MISSOURI 65110

Dear Friends of the Commission,

We are pleased to present the Commission's 2019 report to the Supreme Court of Missouri. It is the Commission's charge to review current practices and recommend measures to ensure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process.

2019 has been a year of important changes in this area. Here are some of the highlights:

- Each licensed attorney in the state is required to participate in at least one hour of continuing legal education in the areas of explicit or implicit bias, diversity, inclusion, or cultural competency.
- The Supreme Court of Missouri approved new civil anti-bias jury instructions to be given to jurors before selection and again before deliberations. Criminal anti-bias jury instructions were updated and approved for distribution to jurors before selection and with instructions that accompany jurors into deliberations.
- New rules for lawyers and judges were adopted by the Supreme Court of Missouri that provide clarification about conduct that constitutes bias or prejudice and harassment, how to determine a rule violation, and examples of harassment as anticipated by the rule.
- A new report, *Diversity and Inclusion in the Missouri Judiciary*, was issued that provides demographic information about judges and other court personnel in our judicial system.
- The Supreme Court of Missouri adopted new rules for pre-trial release of individuals charged with offenses. These authorize consideration of non-monetary bond conditions and require review of circumstances of bond no later than seven days after detention.

Even with progress and change, much work remains. We look forward to the continuing work we will do together to make our courts more accessible and responsive to the people they serve.

William Bay
Lisa White Hardwick
Mikah K. Thompson
Michael Middleton

Co-Chairs



Mr. William Bay

Mr. William Bay, partner at Thompson Coburn, has been recognized as a top litigator by The Best Lawyers in America. He is the past chair of the American Bar Association (ABA) Section of Litigation, the largest section in the ABA, has been a member of the ABA Board of Governors and chaired its Finance Committee. Mr. Bay is also a member of the American Law Institute, the leading independent organization in the United States that works to improve the law. Mr. Bay is the 2018-2020 chair of the 600-member ABA House of Delegates, the policy-making body of the association.



The Honorable Lisa White Hardwick

Ms. Lisa White Hardwick is a judge on the Missouri Court of Appeals, for the Western District. After graduating from Harvard Law School, she joined the firm of Shook, Hardy & Bacon in 1985 and was a partner from 1992 to 2000. She was also elected to the Jackson County Legislature, serving as an at-large representative from 1993 to 2000. She was appointed to the 16th Judicial Circuit as a trial judge in January 2000 and to the Court of Appeals in May 2001. Judge Hardwick served as Chief Judge of the Western District from 2010-2012.



Ms. Mikah K. Thompson

Ms. Mikah K. Thompson joined CREF in 2018 and became a co-chair in October 2019. Thompson is an Associate Professor at the University of Missouri-Kansas City School of Law. She earned her Bachelor of Science degree in communications from Missouri State University and her law degree from Washington University in St. Louis. Thompson's research centers on the intersection of evidentiary law and critical race theory. Recently, she has written on juror bias, describing the impact racial stereotypes have on the way in which jurors assess trial evidence. Prior to joining the faculty, Thompson was the Director of Affirmative Action and Title IX Coordinator for the UMKC campus.



Mr. Michael Middleton, Emeritus

Professor Middleton, Deputy Chancellor Emeritus and Professor Emeritus of Law, joined the law faculty at the University of Missouri in 1985 after an illustrious career with the federal government in Washington. He was a trial attorney in the Civil Rights Division of the Department of Justice and in 1977 was appointed Assistant Deputy Director of the Office for Civil Rights at the Department of Health Education and Welfare. In addition, Professor Middleton was an integral part of the EEOC on the federal level, serving as director of the Office of Systemic Programs and Associate General Counsel, Trial Division and finally, Director of the St. Louis district office prior to assuming his role at the University. Professor Middleton retired after serving as Interim President of the University of Missouri System and as Interim President of Lincoln University.

COMMISSION GOALS AND SUBCOMMITTEE CHARGES

In October of 2015, the Supreme Court established the Commission and set out the goals it was to achieve. The Commission's goal is to examine and review current practices, and to recommend measures to ensure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process and in the practice of law. Consistent with these goals, the Commission shall:

- Identify any barriers to access and fairness in the judicial system and legal profession;
- Review the applicable constitutional provisions; statutes; ethical, procedural and court operating rules that may impact these issues; and such other materials as the commission believes would be helpful to its study and the development of its recommendations;
- Seek public input and engagement through written suggestions, public hearings or such other avenues as the commission believes helpful, as well as collaborate and participate in the "Minority Community Engagement" project with the National Center for State Courts and National Consortium on Racial and Ethnic Fairness in the Courts;
- Conduct, with the consent of the Court, surveys and study additional research regarding racial and ethnic equity in the justice system and in the legal profession.

The Commission shall focus its work in six areas — the judicial system, generally; the civil justice system; the criminal justice system; the juvenile justice system; the municipal justice system; and the practice of law — and will have subcommittees in these areas and such other subcommittees as needed to facilitate its work. Its focus may include but is not limited to the following:

- The existence and impact of any racial and ethnic bias and/or disparities within the judicial system and the practice of law;
- Changes to court rules, regulations, laws and/or practices to improve meaningful access to or participation in the judicial system and the practice of law by racial and ethnic minorities;
- Measures to ensure that all persons within the judicial system and practice of law refrain from manifesting bias or prejudice, by words or conduct, based on race or ethnicity;
- Measures to address any implicit or other bias within the judicial system and legal profession;
- The availability of effective legal representation for racial and ethnic minorities within the judicial system;
- Measures to enhance racial and ethnic diversity in the selection, retention and promotion of judicial officers, court staff and professionals in the legal community; and
- Measures to enhance understanding of the practices, procedures and proper role of the state's courts.

The Commission may act to implement its recommendations as authorized by the Court.

The Commission has since formed two new subcommittees to assist the original six subcommittees in their endeavors. The Data Subcommittee is charged with reviewing and assessing other CREF subcommittees' requests for information and data, including assessments of feasibility, and identifying proposed changes to case management or other data collection methods used by the judiciary. The Public Engagement Subcommittee is charged with responding to public inquiries, supporting CREF subcommittee public sessions, serving as a conduit for the exchange of information, and communicating the mission, priorities and work of the Commission.

Commission on Racial and Ethnic Fairness

2015

- CREF is established by the Supreme Court of Missouri identifying six subcommittees: judicial system, civil justice system, criminal justice system, juvenile justice system, municipal justice system and practice of law.

2016

- Supreme Court of Missouri amends the annual attorney enrollment form seeking voluntary racial and ethnic demographics on the profession based on CREF recommendation.
- The Criminal Justice Subcommittee submits a report reviewing the collateral consequences of convictions in Missouri.
- October 27 - CREF submits an initial report and 13 recommendations to the Supreme Court of Missouri.

2017

- As recommended by CREF, the Office of State Courts Administrator (OSCA) initiates a demographic study of the Missouri Judiciary in consultation with the National Center for State Courts.
- February - March - CREF holds public listening sessions in Columbia, Kansas City, St. Louis and Springfield, to solicit feedback and suggestions for the work of the Commission.
- May 15-17 - CREF hosts 2017 National Consortium on Racial and Ethnic Fairness in the Courts Conference in St. Louis attended by representatives from court systems around the country, as well as local judges, attorneys and members of the public. This included developing all the programming, identifying and inviting speakers, and planning social events.
- June - September - CREF holds public listening sessions in St. Louis, Springfield and Kansas City to solicit feedback and suggestions about juvenile justice issues.
- The juror questionnaire developed for the Show-Me Jury system provides for optional reporting of racial and ethnic demographics.
- December 19 - the Supreme Court of Missouri establishes the Data Subcommittee and the Public Engagement Subcommittee of CREF.

2018

- Practice of Law Subcommittee conducts managing partners' roundtable in Springfield.
- Civil Justice System Subcommittee holds Civil Justice listening sessions in St. Louis and Kansas City to solicit feedback and suggestions about the civil justice system.

- Effective July 18, 2019, the Supreme Court of Missouri revised SCR 18.05 and 15.05 to include an annual minimum requirement of one credit hour devoted to one of the following: cultural competency, diversity, inclusion or implicit bias, and amended regulation 15.01 to include information regarding related training based on CREF recommendation.
- On October 30, 2019, the Supreme Court of Missouri adopted anti-bias jury instructions for both civil and criminal cases (civil MAI 2.00 and criminal jury trials MAI-CR 4th 400.02, 402.01) effective January 1, 2020, based on CREF recommendation. In civil matters the order requires the anti-bias instruction be given before jury selection and reread as part of final jury instructions to the empaneled jury before deliberations. In criminal matters, the order requires that the anti-bias instruction be given before jury selection and included with the instructions that accompany the jurors into deliberations.
- OSCA demographic study completed - The Commission completed *Diversity and Inclusion in the Missouri Judiciary*, a report providing information about the diversity of the Missouri Judiciary, including gender, race/ethnicity, race/ethnicity and gender combined, and age. Each of the variables has its own section in the report and includes results from a 2017 National Center for State Courts study, 2018 payroll data of state paid employees, 2018 self-reported survey data of non-state paid employees, and United States Census Bureau data where available. The report serves as a baseline for future reference and to make future decisions to address disparities found within the Missouri Judiciary as a whole.
- Effective July 18, 2019, the Supreme Court of Missouri adopted new paragraphs 1, 2 and 3 of the Comments of subdivision 2-2.3 including clarification of conduct that constitutes bias or prejudice and harassment, how to determine a rule violation, and examples of harassment as anticipated by the rule based on CREF recommendation.
- Effective July 18, 2019, the Supreme Court of Missouri adopted a new subdivision (g) of subdivision 4-8.4 and a new paragraph 4 of the Comments of 4-8.4 providing a clarification of attorney misconduct including a list of protected categories based on CREF recommendation.
- In response to a recommendation of the Criminal Justice Subcommittee, the Supreme Court of Missouri directed the Clerk of the Court to request Governor Mike Parson make appointments and reactivate the Judicial Sentencing Commission, which was subsequently reconstituted. Likewise the Supreme Court made its appointments to the Commission.

RELEVANT ACTIONS BY THE SUPREME COURT OF MISSOURI, 2014-2019

Supreme Court amends Rule 37.65 “Fines, Installments or Delayed Payments – Response to Nonpayment,” effective July 1, 2015, mandating consideration of a municipal defendant’s indigency.

December 23, 2014

Supreme Court appoints Municipal Division Work Group to evaluate recommendations from multiple sources, including their legality, and prioritize the recommendations.

May 14, 2015

SB5 goes into effect. The Supreme Court worked with the legislature on this legislation, which places a cap on fines and fees and requires municipal divisions to notify the Supreme Court of their existence, along with other requirements. Before the law, no list existed of municipal divisions or their judges and staff. Through the Supreme Court’s required reporting, more than 600 municipal divisions have been identified, with over 2,000 judges and staff. Approximately 400 of these divisions operate independently, while approximately 200 operate in conjunction with associate circuit divisions.

August 2015

St. Louis County municipal judges, prosecutors, and court administrators meet, resulting in Fresh Start Initiative where judges in 81 municipalities in St. Louis County removed all pending driver license suspensions for failure to appear in court or pay for minor moving traffic violations, dismissed pending failure to appear cases for minor traffic violators, and recalled warrants for failure to appear on minor traffic violations.

August 15, 2015

Supreme Court issues letter to Municipal Division Work group outlining priorities.

September 22, 2015

The Supreme Court creates the Commission on Racial and Ethnic Fairness, with six subcommittees, including municipal, juvenile, criminal, civil, judicial and practice of law.

October 6, 2015

Supreme Court approves recommended changes to Rule 2-2.3 Bias, Prejudice and Harassment, effective January 1, 2016.

November 10, 2015

Supreme Court approves new Jury Instruction in Criminal Cases on Eyewitness Identification and Testimony.

December 16, 2015

Supreme Court revises Court Operating Rule 14.01 “Assignment of Judicial Personnel” (effective July 1, 2016) that mandates that any case in family or juvenile court in which a juvenile officer is a party, is not heard by the judge who appointed that officer.

March 3, 2016

Supreme Court approves new Court Operating Rules 21.06 and 21.07 governing municipal division debt collections to be effective July 1, 2016.

April 14, 2016

Supreme Court establishes a Municipal Clerk Education Committee to develop and conduct educational activities for municipal division clerks and other personnel of the municipal division.

May 17, 2016

Supreme Court creates Committee on Practice and Procedures in the Municipal Division to implement the recommendations as ordered by the Court.

May 31, 2016

Supreme Court approves a uniform model local court rule to determine indigency. The model rule simplifies the process of determining indigency in high-volume dockets and seeks information within the defendant’s present knowledge to alleviate the need for continuances. Effective September 19, 2016, and corrected December 14, 2016.

August 2016

Supreme Court adopts new 37.04 “Supervision of Courts Hearing Ordinance Violations” and adopts “Minimum Operating Standards for Municipal Divisions of Missouri Courts” with regular reporting of compliance in January and July of each year, beginning in January 2017.

September 20, 2016

Supreme Court amends code of judicial conduct to prohibit a judge from hearing any case where the multiple roles of the judge and attorneys creates a conflict of interest.

October 2016

Supreme Court amends the annual attorney enrollment form seeking voluntary racial and ethnic data on the profession.

October 2016

Supreme Court approves the adoption of a Code of Conduct for Municipal Division Personnel, effective January 1, 2017.

November 16, 2016

“Track This Case” is launched and allows parties and the public to be notified electronically of activity in a particular case.

November 2016

Supreme Court adopts new comments to Juvenile Justice Standards Rule 110.01, which provide guidance and direction as to the legal mandates and ethical obligations for juvenile officers, and offer strategies for elevating practice and accountability in each juvenile office. Standards also mandates uniformity in practices.

December 23, 2016

Supreme Court establishes protocols for presiding circuit court judges to supervise the municipal divisions, which outline the sanctions for failure to comply – including reporting a judge to the Commission on Retirement, Removal and Discipline; transfer of cases to another municipal division; and cessation of court operations.

December 29, 2016

Supreme Court authorizes the hiring of clerk and attorney monitors to assist the St. Louis County presiding judge in monitor municipal divisions across the state.

March 2017

Supreme Court hosts 2017 National Consortium on Racial and Ethnic Fairness in the Courts Conference in St. Louis attended by representatives from court systems around the country, as well as local judges, attorneys and member of the public.

May 15-17, 2017

Supreme Court establishes a Commission on Civil Justice Reform to review the Conference of Chief Justices recommendations for civil justice reform to review all civil practices and procedures and to recommend measures to ensure the fair, affordable, and prompt resolution of civil disputes in the justice system and thereby enhancing public confidence in and meaningful access to the state court civil justice system.

June 28, 2017

Supreme Court approves a bench card for judges concerning “Lawful Enforcement of Legal Financial Obligations” detailing how courts and judges should deal with financial obligations of defendants.

June 30, 2017

Supreme Court establishes the Task Force on Criminal Justice to ensure that Missouri criminal defendants are treated fairly and equitably, and to ensure that the determination and conditions of pretrial release are based on risks of failing to appear and dangerousness to crime victims, communities, or others, and not on race, gender, ethnicity, or economic conditions. The Task Force is charged with reviewing pretrial practices and making recommendations regarding private probation, the imposition and collection of fines, sentencing disputes, driver’s license suspensions, and other collateral consequences.

June 30, 2017

Supreme Court establishes the a Task Force on Criminal Justice to ensure that Missouri criminal defendants are treated fairly and equitably, and to ensure that the determination and conditions of pretrial release are based on risks of failing to appear and dangerousness to crime victims, communities, or others, and not on race, gender, ethnicity, or economic conditions. The Task Force is charged with reviewing pretrial practices and making recommendations regarding private probation, the imposition and collection of fines, sentencing disputes, driver's license suspensions, and other collateral consequences.

June 30, 2017

Supreme Court amends Rule 37.04 "Notice of Rights for Defendants Appearing in Municipal Divisions addressing Constitutional Rights, non-U.S. Citizen potential consequences and ADA accommodations," effective July 1, 2018.

May 17, 2018

Supreme Court amends Rule 4.29 "Minimum Operating Standards: Revised reporting schedule. Process of reporting compliance has been automated," effective July 1, 2018.

June 12, 2018

Supreme Court adopts Rule 37.65 "Requires that the courts consider indigency whenever a defendant is unable to pay," effective January 1, 2019.

June 29, 2018

Supreme Court and Missouri Court Automation Committee began automating the 623 municipal divisions of circuit courts. As of December 2018, 341 municipal divisions were using the statewide case management system. Such automation enables better tracking of local courts compliance with rules and operating standards.

2018

Supreme Court adopts changes to criminal rules (Rules 21, 22 & 33) regarding pre-trial release, following proposals from the Committee on Criminal Procedures and the Task Force on Criminal Justice.

December 18, 2018

Supreme Court amends Rule 15.05 "Requires attorneys to complete at least one credit hour or accredited program in activities devoted exclusively to cultural competency, diversity, inclusion and implicit bias," effective July 1, 2019.

June 30, 2019

Supreme Court adopts Rule 2-2.3 "New paragraphs 1, 2 and 3 of the Comments of subdivision 2-2.3 including clarification of conduct that constitutes bias or prejudice and harassment as anticipated by the rule," effective July 18, 2019.

July 18, 2019

Supreme Court adopts Rule 2-8.4 “New subdivision (g) of subdivision 4-8.4 and a new paragraph 4 of the Comments of 4-8.4 providing clarification of attorney misconduct including a list of protected categories,” effective July 18, 2019.

July 18, 2019

MAI-Civil Instructions, MAI 2.00 (c) Notes on Use and Committee Comments “Requires an anti-bias instruction be given to jurors before selection and again before deliberations,” effective January 1, 2020.

October 30, 2019

MAI-Criminal Instructions, MAI-CR 4th 400.02, 402.01 Notes on Use and Committee Comments “Requires an anti-bias instruction be given to jurors before selection and included with the instructions that accompany the jurors into deliberations,” effective January 1, 2020.

October 30, 2019

Supreme Court and Missouri Automation Committee continue automation of municipal divisions of circuit courts. As of December 2019, 424 (of the 623) municipal divisions had implemented. Such automation continues to enable better tracking of local courts compliance with rules and operating standards.

2019

RELEVANT ACTIONS BY THE MISSOURI LEGISLATURE, 2015-2019

SB5 goes into effect. The Supreme Court worked with the legislature on this legislation, which places a cap on fines and fees and requires municipal divisions to notify the Supreme Court of their existence, along with other requirements. Before the law, no list existed of municipal divisions or their judges and staff. Through the Supreme Court's required reporting, more than 600 municipal divisions have been identified, with more than 2,000 judges and staff. Approximately 400 of these divisions operate independently, while approximately 200 operate in conjunction with associate circuit divisions.

August 28, 2015

SB 572 goes into effect. The law establishes certain regulations for penalties for municipal ordinance violations, including prohibiting a court from assessing a fine greater than \$200 and allowing a court to waive court costs if the individual is deemed indigent or the case is dismissed.

August 28, 2016

SB 43 goes into effect. The act passed into law June 30, 2017, raised the burden of proof required of Plaintiffs to sue for employment discrimination based upon protected class status.

August 28, 2017

SB 588, 603 and 942 goes into effect. The law expands the opportunities for criminal litigants to seek petitions for expungement of their criminal records for a certain set of convictions.

January 1, 2018

SB793 voted on by the Missouri General Assembly. Voted to increase the age for automatically trying youth as adults from 17 to 18, paving the way for criminal cases against youth who are under the age of 18 to begin in the juvenile court system. Effective in 2021 (subject to sufficient appropriation).

May 10, 2018

SB954 and 1355 goes into effect. Revises Section 610.140, RSMo to allow individuals found guilty of the offense of unlawful use of a weapon because they were carrying a concealed weapon prior to January 1, 2017, to apply for an order to expunge records relating to such offense.

August 28, 2018

HB547 goes into effect. Passed by the General Assembly revising Missouri Revised Statutes at 478.001-478.009 to include language requiring circuit courts to establish a treatment court as an alternative for disposition of cases that stem from substance use.

July 9, 2019

Authorized the establishment of diversion programs by each prosecuting attorney in the state of Missouri. These programs would allow a criminal case to be diverted for a period of six months to two years, thus allowing for any statute of limitations to be tolled from that time alone. Effective August 28, 2019.

HB192 goes into effect. Passed by the General Assembly authorizing review of show cause fines and sentences and waiver or reduction of same if the court finds it reasonable given the circumstances of the case.

Precludes courts from requiring a defendant who defaults in payment of or installment of a fine to show cause why they should not be imprisoned for nonpayment; the court can no longer issue a warrant or summons for the defendant's appearance. The fine is collectable by civil means.

July 9, 2019

Precludes courts from recovering the costs for detention, imprisonment or the holding of a person as a condition of probation or the failure to pay these costs be the only basis for issuing a warrant.

Also includes Section 558.019, RSMo, which provides that an offender who was convicted of, or pled guilty to, a felony offense other those listed in the statute prior to August 28, 2019, shall no longer be subject to the minimum prison term provisions under subsection 2, and shall be eligible for parole, conditional release, or other early release by the Department of Corrections according to the rules and regulations of the department.

HB397 goes into effect. Passed by the General Assembly authorizing expungement for prostitution convictions if the court determines that such person was under the age of 18 or acting under coercion when committing the offense to assist trafficking victims.

July 11, 2019

Mandates that for defendants under the age of 18 and acting under the coercion of an agent at the time of the offense of prostitution was charged, the defendant be classified as a victim of abuse and such abuse be reported.

SB1 goes into effect. Passed by the General Assembly revising Section 610.140, RSMo by removing four crimes from the list of crimes currently not eligible for expungement:

August 28, 2019

569.100 - Property damage in the first degree

570.030 - Stealing

570.100 - Possession of a forging instrumentality

570.130 - Fraudulent use of a credit device or debit device

STATUS OF OTHER RECOMMENDATIONS

1. Recommend an examination of Missouri jury instructions, consistent with the Supreme Court of Missouri's recent adoption of changes to MAI 310.02 concerning eyewitness testimony. These newly adopted guidelines provide deeper clarification of the conditions expected for eyewitness testimony, including environmental conditions, eyesight of the witness, race/ethnicity of involved parties, presence of intoxication or altered state, etc. These guidelines apply to trial and to photographic and live lineups. They align closely with those in use by the U.S. Court of Appeals for the Eighth Circuit.
 - Referred to the Judicial Subcommittee for follow up on adoption of a rule pertaining to eyewitness testimony in civil matters.
2. Recommend development of plans to implement recommendations within *Call To Action: Achieving Civil Justice for All - Recommendations to the Conference of Chief Justices by the Civil Justice Improvements Committee*. The recommendations call for resourcing and managing court cases consistent with case complexity to facilitate timely and efficient processing of cases. The recommendations also call for improving convenience to litigants and increasing the transparency of measurement data.
 - Midwest Region Civil Justice Reform Summit was held in Kansas City, Missouri, on October 3-5, 2018. The focus of the summit was to provide direction and best practices for moving reform initiatives forward. See attached agenda at appendix page 32.
3. Support changes to the relationship of the appointing authority and the juvenile officer authorized by the Supreme Court in Court Operating Rule 14.01, which seeks to ensure the juvenile/family court judge shall not exercise authority in a manner that interferes with the independent decision-making necessary for the juvenile officer to carry out the statutorily mandated and separated roles and responsibilities of the juvenile officer.
 - The Court made some changes to Court Operating Rule 14 to ensure that judges hearing a juvenile matter would not also serve as the appointing authority for the assigned juvenile officers.
4. Recommend OSCA set up procedures to collect racial and ethnic data at all stages of the criminal justice process: plea, arrest, diversion, etc. The collection of this data will allow for the examination of any patterns of disparity in the different steps of case processing similar to the studies that have been conducted on juvenile system case processing using these data points.
 - The Department of Revenue does not have self-reported demographic data in their records. OSCA does not have independent access to the self-reported demographic information, as a result, OSCA has no independent access to arrest data, but only has the data provided by arresting officers that is commonly the result of the officers' visual inspection of the defendant.
5. Provide training to judges about the new expungement practices in Section 610.140 that go into effect January 1, 2018.
 - The new expungement criteria has come into effect and training in this regard has not yet been implemented.

2018-2019 SUBCOMMITTEE ACTIVITY SUMMARIES

The following sections are separated by subcommittee and reflect highlights of the activities undertaken by the listed subcommittees in this reporting period. Their efforts are outlined by the identified goals and considerations along with a year-end status that is included at the conclusion of each section.

Civil Justice System Subcommittee

The Civil Justice System Subcommittee's three main goals have remained the same for this term:

- How to overcome the language barriers in court documents
Determine critical court documents that need to be translated (for example: court summons), and which languages are most prevalent.
- Community outreach/survey to determine future goals
Secure meeting format from other subcommittees and perform at least one outreach event this year.
- Changes in the court system to prevent implicit bias (such as biases found in jury instructions)
Determine potential biases jurors may face in the court system, such as those found in jury instructions and possible ways to overcome these biases. Draft a proposed intervention for the courts to implement.

Year-end status:

Language Barriers: The subcommittee recommended translation of documents into the following languages: Spanish, Arabic, Russian, Burmese, Vietnamese, Mandarin, and Somali. The documents to be translated/updated are court forms that were previously translated as well as all court forms required to effectuate a name change.

Community Outreach/Survey: The subcommittee held its third listening session September 28, 2019, in Ferguson, Missouri, in conjunction with the Municipal Subcommittee. The St. Louis Urban League was the host at the Ferguson Empowerment Center. The subcommittee will use the feedback to draft recommendations.

Implicit Bias: The subcommittee proposed a recommended jury instruction to the full Commission, which was then recommended to the MAI Instruction Committee for adoption. The submitted instruction was adopted for both civil and criminal jury instructions.

Criminal Justice System Subcommittee

The Criminal Justice System Subcommittee has spent the year focused on addressing collateral consequences of criminal convictions.

Year-end status:

In the first quarter of this year, the committee members discussed following up the suggestion made to the committee-at-large that we consider focusing on the efficacy of the expungement statutes, 610.122, 610.123, 610.124, 610.125, 610.126, 610.130, 610.131, 610.140 and 610.145, seeking answers to the questions of whether applications for expungement are being made, are applications being granted, is the relief meaningful, etc? An informal survey was conducted in an effort to determine the effectiveness of section 610.140. In an effort to formulate a tailored plan to address the need for expungement to restore rights after satisfaction of sentence, anecdotal data and information was gathered and is being reviewed. The committee members will also be reviewing expungements statutes from other states such as Kansas and California.

Judicial System Subcommittee

The Judicial System Subcommittee has spent the year focusing on two areas of interest:

- The current state of the law with respect to how jury pools are selected in Missouri.
- Researching the use of diversion courts in other jurisdictions that might inform the creation of diversion courts statewide in Missouri.

Year-end status:

Jury Pools: The subcommittee discovered that studies show low income individuals and people of color are underrepresented on voter registration lists. In many jurisdictions the jury pool is created from voter registration lists and other lists. It is not uncommon to have three or more source lists. Scholars have reported that voter registration lists underrepresent parts of the population, but adding additional lists has not been proven to solve the problem. Missouri uses voter registration lists as one of its source lists. The subcommittee voted to move forward to study the absolute disparity and comparative disparity data displaying underrepresentation in jury pools in Missouri. Other barriers identified in pursuit of this goal were that few courts maintain records that identify the race of each jury member and even fewer courts identify the race of the jury pool member; in fact, many do not even keep records of the jury pool; that courts have limited the data collected about jurors in an effort to avoid historically rooted discriminatory practices. However, the Federal courts require prospective jurors to indicate their race in an effort to avoid discrimination in juror selection. Additional data will need to be secured in order to complete the analysis. The subcommittee is still researching this issue.

Diversion Court: Model legislation to establish a statewide diversion court

The subcommittee discussed House Bill No. 547, recently passed in the legislature regarding diversion courts, and whether or not the issues the subcommittee had addressed in their proposed diversion statute had been properly addressed by the bill as the prosecutor still has sole control over which defendants have access to diversion and this statute does not mandate diversion courts be available state-wide. The subcommittee has not yet determined whether this legislation meets their satisfaction.

Juvenile Justice System Subcommittee

The Juvenile Justice System Subcommittee has spent the year focusing on two primary areas of interest:

- The overwhelming need for juveniles to have legal representation in delinquency cases.
- The need to ensure that waiver of their Constitutional right to counsel is knowing.

Year-end status:

Representation: The subcommittee has determined that CLE credits are not available for taking a pro bono case; however, any training obtained to gain competency can receive credits. The project plan is under revision in light of this information.

Waiver: The subcommittee has drafted easily understandable Miranda Warnings and is in the process of reviewing same alongside the current rights advisory form to determine whether or not revision is warranted.

Practice of Law Subcommittee

The Practice of Law Subcommittee has had two primary areas of focus:

- Continuing with their series of roundtable sessions. The objective of these roundtables is to identify diversity issues confronting practitioners.
- Pursuing their retention survey of attorneys in Missouri.

Year-end status:

Roundtables: As part of the effort to identify diversity and inclusion issues affecting practitioners in the region, the subcommittee held a roundtable session for large law firms and legal organizations in Kansas City at the Kansas City Metropolitan Bar Association (KCMBA) Tuesday, April 30, 2019. All participants expressed interest in promoting diversity within the profession and most organizations have existing diversity and/or inclusion programs. Participants support an additional 1-2 hours of CLE for diversity, inclusion or implicit bias education. It was also recommended that we recognize successful firms/individuals for their diversity and inclusion efforts.

Survey: The subcommittee revised the draft survey and it was released for bid. The project is pending pursuant to the bid process, but the full Commission has authorized the project to proceed.



September 28, 2019, Civil and Municipal
Justice Joint Listening Session



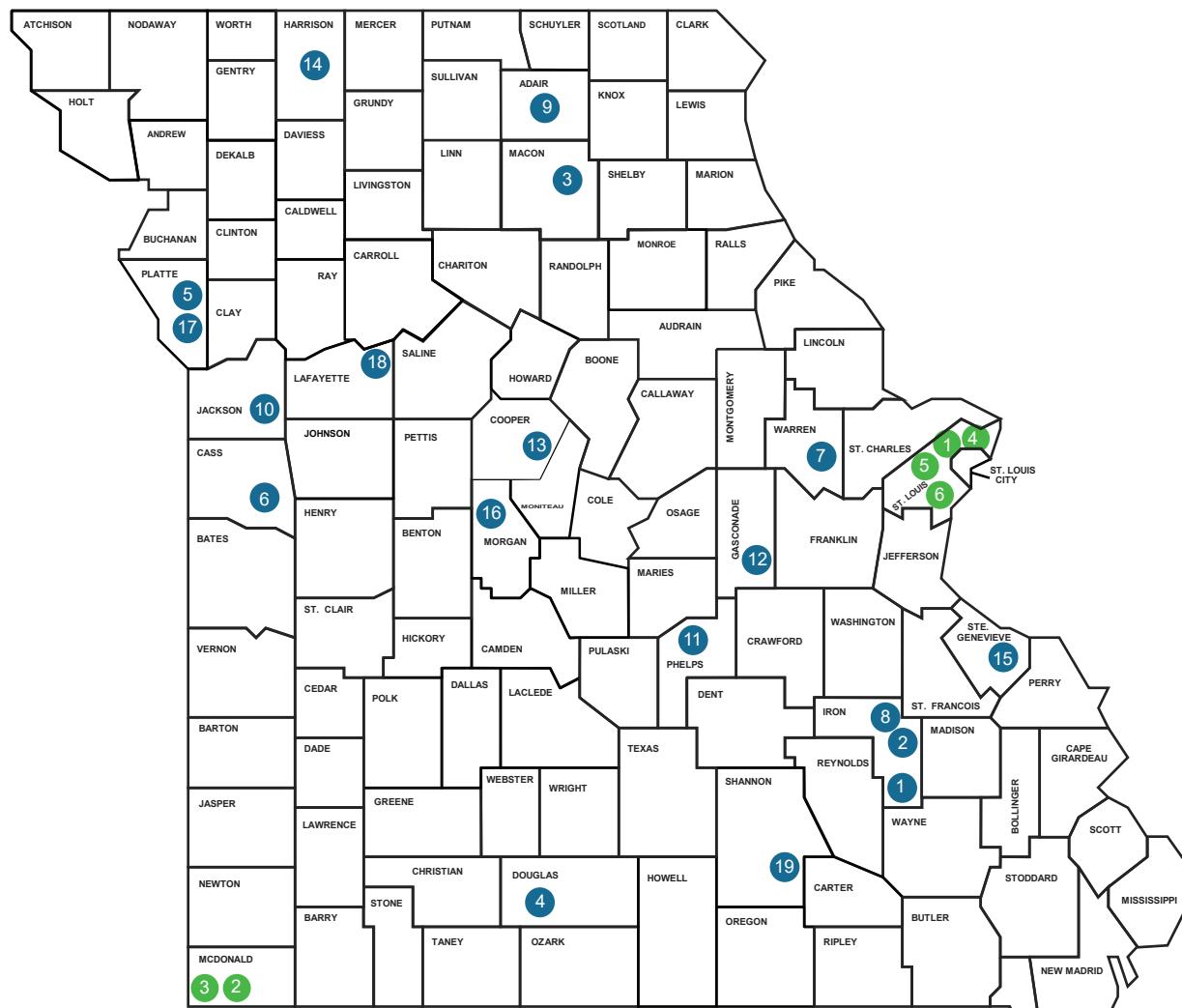
CREF members in attendance at the June 2019 meeting

MUNICIPAL UPDATES IN MISSOURI

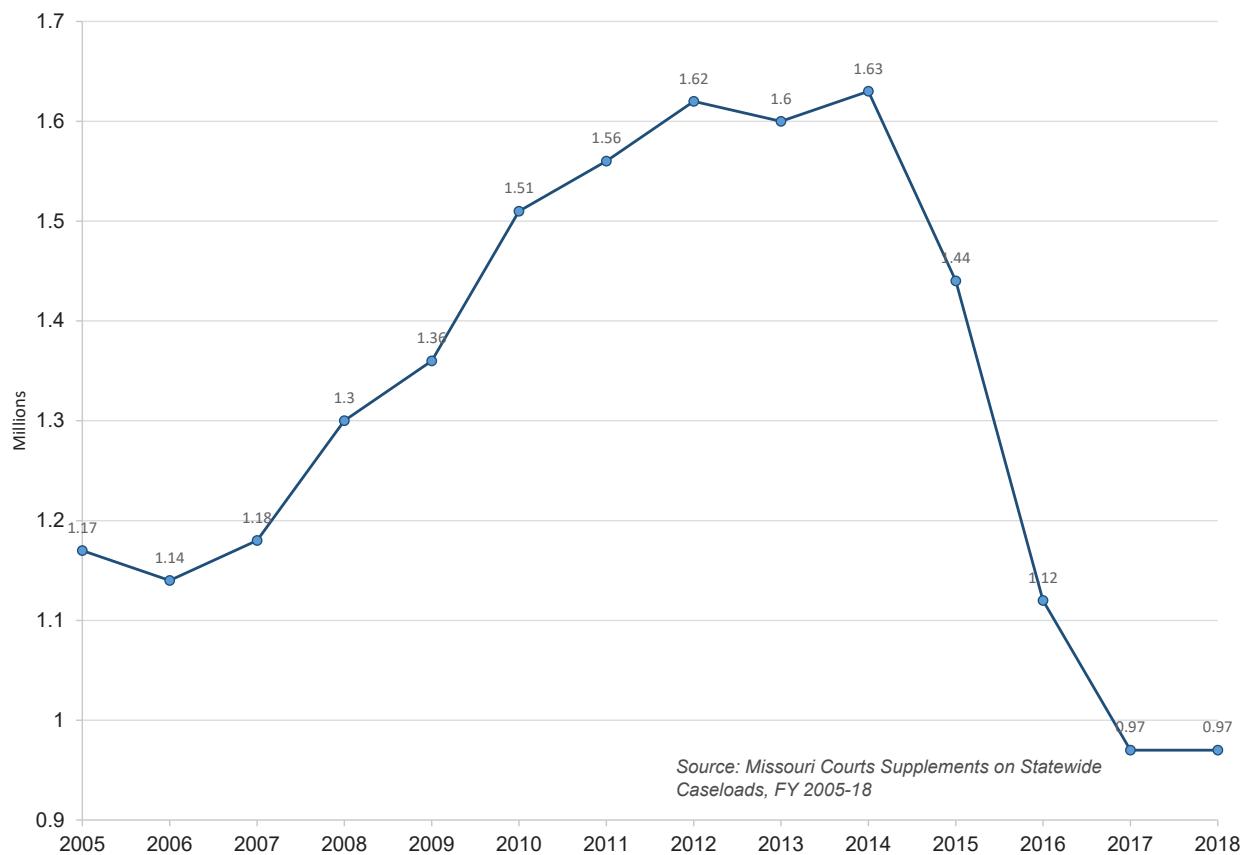
At the time CREF was formed, Missouri had approximately 600 municipal divisions, many with unique governing structures that could differ from circuit to circuit. Over time, municipal jurisdictions have consolidated in some instances and transferred from municipal divisions to circuit courts in others to improve service provision to litigants.

Between November 2018 and November 2019, 19 municipal divisions transferred to the associate circuit court and six municipal divisions contracted with another municipal division, improving efficiency, standardization of procedures, and accessibility and availability of court hours.

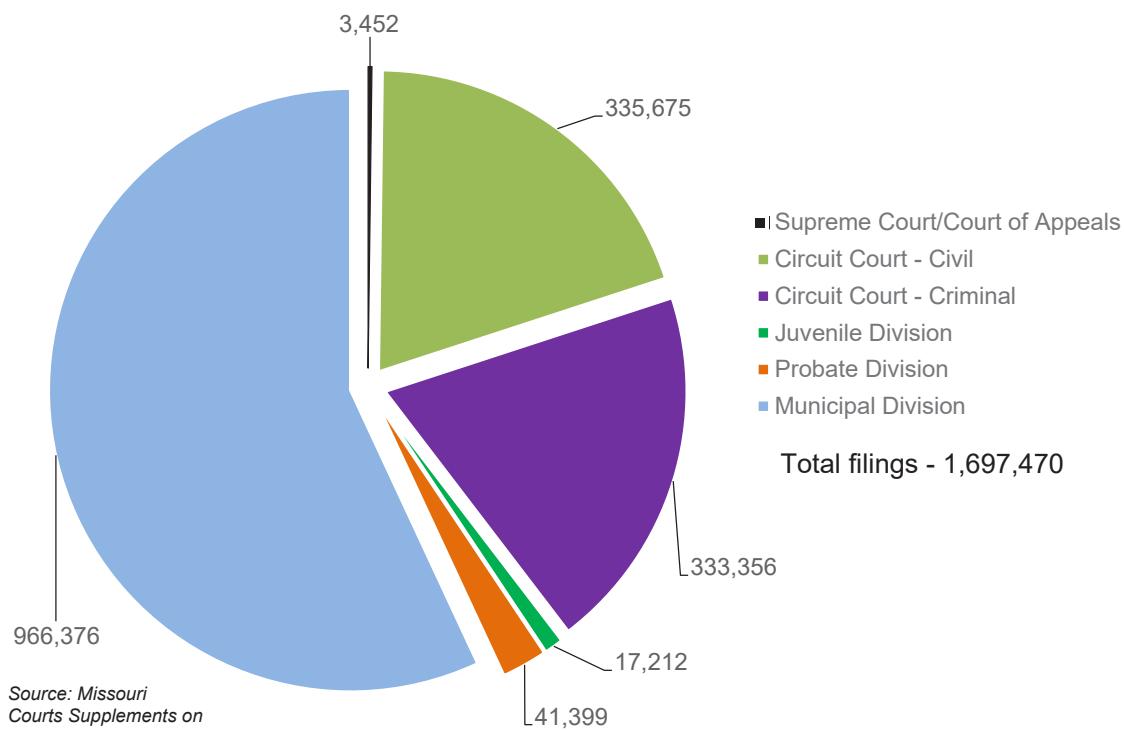
The jurisdictions pending transfer to circuit courts and pending contracts in the 2018 report completed their processes in 2019, but are not included in this municipal update.



Number of municipal court filings in Missouri (FY 2005-2018)



Number of total statewide court filings, FY 2018



LIST OF COMMISSIONERS

The Commission on Racial and Ethnic Fairness selected Commissioners from across Missouri who represent various parts of the judicial system. Attorneys, judges, law enforcement, court personnel and representatives from academia have a voice in the process of creating systematic changes within the courts to ensure racial and ethnic fairness for all Missourians. The following members currently comprise the Commission:



Pictured are Commission members present at the CREF meeting held October 8, 2019.

Executive Committee

Chief Justice George W. Draper III (Jefferson City)
Supreme Court of Missouri

The Honorable Patricia Breckenridge, Liaison (Jefferson City)
Supreme Court of Missouri

The Honorable Lisa White Hardwick, Co-Chair (Kansas City)
Missouri Court of Appeals, Western District

Mr. William R. Bay, Co-Chair (St. Louis)
Thompson Coburn

Professor Mikah Thompson, Co-Chair (Kansas City)
University of Missouri - Kansas City School of Law

Professor Michael A. Middleton, Co-Chair Emeritus (Columbia)
Deputy Chancellor Emeritus - University of Missouri School
of Law

Staff: Ms. Kimberley Taylor-Riley, Executive Director
(Jefferson City)
Office of State Courts Administrator

Civil Justice System Subcommittee

The Honorable Nicole Colbert-Botchway, Co-Chair (St. Louis)
Judge, 22nd Judicial Circuit

Mr. Ronald Nguyen, Co-Chair (Kansas City)
The Law Office of Ronald Nguyen

Mr. Allan Seidel (Trenton)
Seidel Havens and Dennis

Professor David Achtenberg (Kansas City)
University of Missouri - Kansas City School of Law

The Honorable Angela Turner Quigless (St. Louis)
Missouri Court of Appeals, Eastern District

Ms. Jenelle M. Beavers (Columbia)
University of Missouri System

Mr. Dan Cranshaw (Kansas City)
Polsinelli

Criminal Justice System Subcommittee

Mr. Dion Sankar, Co-Chair (Kansas City)
Jackson County Courthouse

The Honorable Gary Oxenhandler (Ret.), Co-Chair
(Columbia), Oxenhandler Law

Mr. James R. Hobbs (Kansas City)
Wyrsch Hobbs & Mirakian

The Honorable Annette Llewellyn (St. Louis)
Judge, 22nd Judicial Circuit

Professor Susan McGraugh (St. Louis)
St. Louis University School of Law

Mr. Andrew Popplewell (Columbia)
Eng & Woods

Ms. Lesley Smith (Kansas City)
Public Defender's Office

Ms. Christine Krug (St. Louis)
Missouri Office of Attorney General

The Honorable Rebecca S. McGinley (Albany)
Judge, 4th Judicial Circuit

Colonel of Missouri Highway Patrol or Designee Lt. Col.
Malik Henderson, Asst. Supt. (Jefferson City)
Missouri State Highway Patrol

Judicial System Subcommittee

The Honorable Kenneth R. Garrett III, Co-Chair
(Independence)
Judge, 16th Judicial Circuit

The Honorable Louis Angles, Co-Chair (Liberty)
Judge, 7th Judicial Circuit

Mr. Gonzalo Fernandez (St. Louis)
Devereaux, Stokes, Noland, Fernandez & Leonard

The Honorable Nancy Rahmeyer (Springfield)
Missouri Court of Appeals, Southern District

Ms. Dorothy White-Coleman (St. Louis)
White Coleman & Associates

The Honorable Charles Curless (Lamar)
Senior Associate Circuit Judge, 28th Judicial Circuit

Professor Chuck Henson (Columbia)
University of Missouri - Columbia School of Law

The Honorable Robin Ransom (St. Louis)
Judge, Missouri Court of Appeals

Juvenile Justice System Subcommittee

The Honorable Sandra Hemphill, Co-Chair (Clayton)
Judge, 21st Judicial Circuit

Ms. Luz Maria Henriquez, Co-Chair (St. Louis)
Legal Services of Eastern Missouri

Ms. Susan E. Block (St. Louis)
Paule, Camazine & Blumenthal

Mr. Rick Gaines (Clayton)
Family Court of St. Louis County

Professor Douglas E. Abrams (Columbia)
University of Missouri - Columbia School of Law

Mr. Jacob Zimmerman (Cape Girardeau)
Zimmerman Law

The Honorable Corey A. Carter (Kansas City)
Municipal Judge, 16th Judicial Circuit

Municipal Justice System Subcommittee

The Honorable Martina Peterson, Co-Chair (Kansas City)
Municipal Judge, 16th Judicial Circuit

The Honorable Brandi R. Miller, Co-Chair (Bel Ridge)
Municipal Judge, 21st Judicial Circuit

Professor Karen Tokarz, (St. Louis)
Washington University School of Law

The Honorable Judy P. Draper (Ret.) (Clayton)
Judge, 21st Judicial Circuit

Ms. Christine Krug (St. Louis)
Missouri Office of Attorney General

The Honorable Todd Thornhill (Springfield)
Municipal Judge, 31st Judicial Circuit

The Honorable Douglas Beach (Ret.) (Chesterfield)
Judge, 21st Judicial Circuit

Practice of Law Subcommittee

Ms. Jennifer Placzek, Co-Chair (Springfield)
Placzek, Winget & Placzek

Mr. Patrick Chavez, Co-Chair (St. Louis)
Edward Jones

The Honorable Lajuana Counts (Kansas City)
U.S. Magistrate Judge, Western District of Missouri

Ms. Crista Hogan (Springfield)
Springfield Metropolitan Bar Association

Mr. Michael A. Williams (Kansas City)
Williams Dirks Dameron

Mr. Richard Bien (Kansas City)
Lathrop & Gage

Ms. Mischa Buford Epps (Columbia)
Attorney at Law

Professor Kimberly Norwood (St. Louis)
Washington University School of Law

Professor Geetha Rao Sant (St. Louis)
Washington University School of Law

Ms. Tracie Ransom (Kansas City)
Ransom Strategies Group, LLC

Ms. Sheena Hamilton (St. Louis)
Dowd Bennett

Mr. H. Wes Pratt (Springfield)
Missouri State University

Mr. Leonard Searcy (Kansas City)
Shook, Hardy & Bacon

Mr. Casey Wong, Liaison from Missouri Bar (St. Louis)
Sandberg Phoenix

Data Subcommittee

Mr. Ben Burkemper, Chair (St. Louis)
Court Administrator, 21st Judicial Circuit

Ms. Lynn Vogel (Clayton)
Vogel Law Office

The Honorable Kenneth R. Garrett III (Independence)
Judge, 16th Judicial Circuit

The Honorable Sandra Hemphill (Clayton)
Judge, 21st Judicial Circuit

Anne Dannerbeck Janku, Ph.D. (Columbia)
University of Missouri School of Social Work

Ms. Kristen Sanocki (St. Louis)
Thompson Coburn LLP

Public Engagement Subcommittee

Ms. Crista Hogan, Chair (Springfield)
Springfield Metropolitan Bar Association

Mr. Booker T. Shaw (St. Louis)
Thompson Coburn

Ms. Christine Bertelson (Clayton)
Director of Strategic Communications, 21st Judicial Circuit

Mr. H. Wes Pratt (Springfield)
Missouri State University

The Honorable Robin Ransom (St. Louis)
Judge, Missouri Court of Appeals

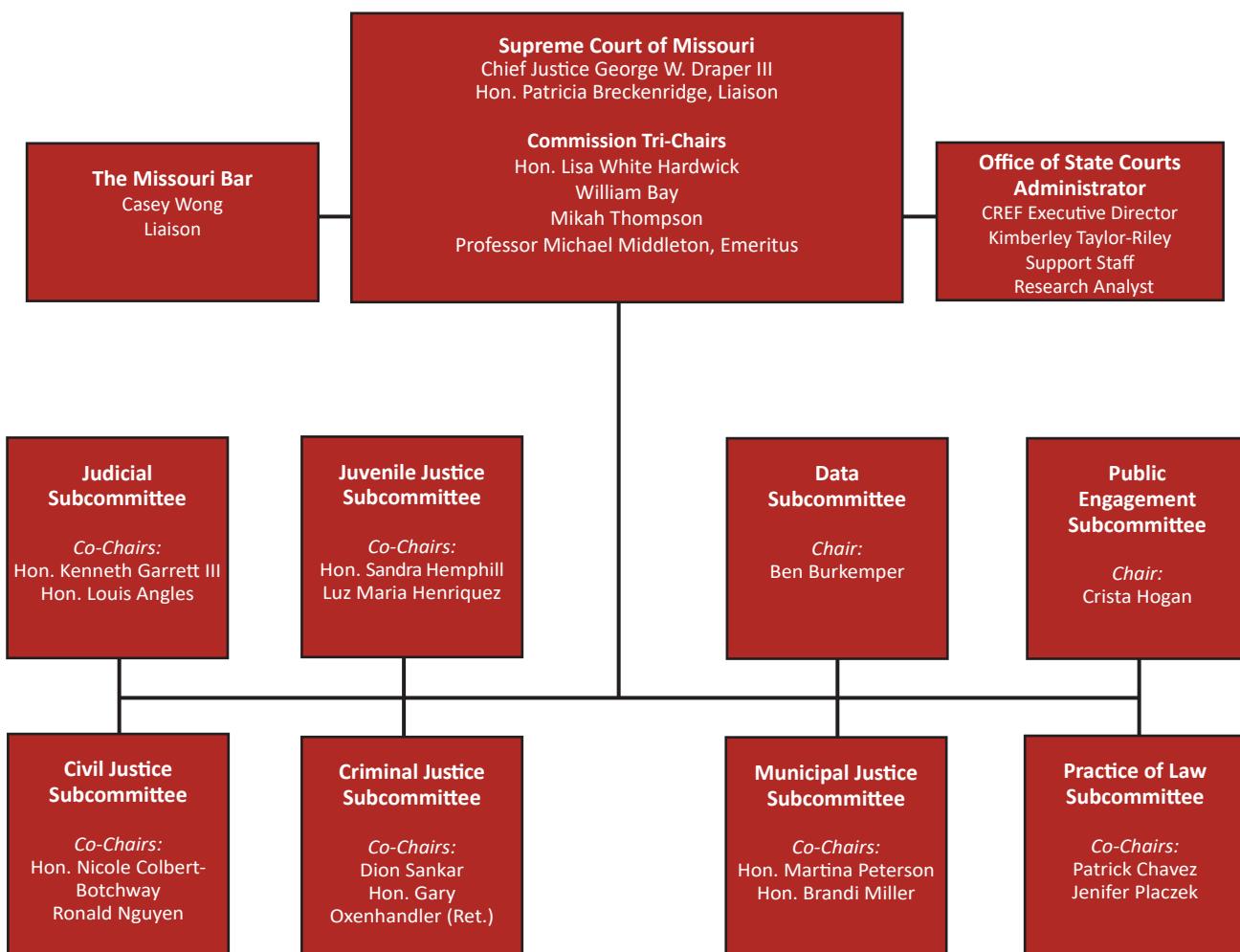
Dr. Alisa Warren (St. Louis)
Missouri Commission on Human Rights

COMMISSION ON RACIAL AND ETHNIC FAIRNESS STRUCTURE



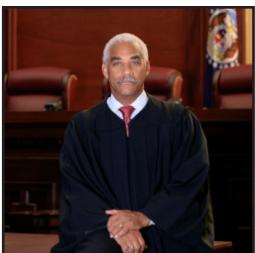
*Supreme Court of Missouri judges (left to right):
Judge Laura Denvir Stith, Judge W. Brent Powell, Judge Paul
C. Wilson, Chief Justice George W. Draper III, Judge Mary R.
Russell, Judge Patricia Breckenridge, Judge Zel M. Fischer*

The leaders of CREF have changed since our last annual report with a new Missouri Bar Liaison and several new subcommittee co-chairs to support our endeavors.



COMMISSIONERS' ACCOMPLISHMENTS, AWARDS AND ACTIVITIES

Our Commissioners give of their time and talents to make the CREF a successful agent for change. In addition to their full-time employment, they publish, volunteer and excel in their varied fields of expertise. In this portion of the report, we recognize their efforts outside of CREF to enhance their communities.



The Honorable George W. Draper III
Chief Justice, Supreme Court of Missouri

Chief Justice Draper is a St. Louis native, only the second African American to serve in this capacity in Missouri, and was the CREF liaison to the Supreme Court for two years prior to his ascension on July 1, 2019. He has been serving at the appellate court level since 2000.



The Honorable Lisa White Hardwick
Judge, Missouri Court of Appeals, Western District

Hon. Lisa White Hardwick, Missouri Court of Appeals, Western District, was recognized for distinguished service by the Kansas City Missouri Bar Association with the placement of her portrait in the Jackson County Courtroom where she served prior to her elevation to the appellate court.



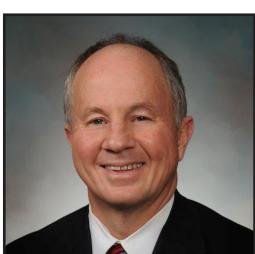
Professor Michael Middleton
Former Deputy Chancellor Emeritus and Professor Emeritus of Law

Professor Michael Middleton received the Faculty-Alumni Award from the University of Missouri, School of Law in November 2019. Professor Middleton was the subject of *Only the Educated are Free, the Journey of Michael Middleton*, which was released in September 2019, documenting his tireless Civil Rights efforts. Photo courtesy Professor Michael Middleton.



The Honorable Nicole Colbert-Botchway
Judge, 22nd Judicial Circuit

Judge Colbert-Botchway received recognition for her diversity and inclusion efforts by Missouri Lawyers Media in August 2019. Judge Colbert-Botchway was appointed associate circuit judge in 2015.



The Honorable Todd Thornhill
Judge, 31st Judicial Circuit

Chief Judge Todd Thornhill of the 31st Judicial Circuit's Springfield Municipal Division was awarded the Association's George Pittman Award. Thornhill is the first municipal division judge to serve as a Supreme Court of Missouri committee chair, is the 10th recipient of the award, and the first from southwest Missouri.



Ms. Luz Maria Henriquez
Managing Attorney, Legal Service of Eastern Missouri

Ms. Henriquez, managing attorney of the education justice program at Legal Services of Eastern Missouri, received recognition for her diversity and inclusion efforts by the Missouri Lawyers Media in August 2019.



Professor Kimberley Norwood
Washington University

Professor Norwood, the Henry H. Oberschelp Professor of Law at Washington University, was named the Missouri Lawyers Media 2019 “Woman of the Year.” She has been a professor at Washington University since 1990 and helped organize the first international conference on colorism in the United States.



Professor Karen Tokarz
Washington University

Professor Karen Tokarz, the Charles Nagel Professor of Public Interest Law & Policy at Washington University, was inducted as a Distinguished Fellow in the International Academy of Mediators in 2019. She was named to Best Lawyers in America in Mediation for the 11th year in a row.

The Missouri Supreme Court Commission on Racial & Ethnic Fairness

Presents

A COMMUNITY LISTENING FORUM

**To address community concerns with the Missouri Justice System
Civil and Municipal Court issues**

Saturday September 28, 2019, 2:00 PM – 5:00 PM

**Hosted by Urban League of Metropolitan St. Louis President and CEO McMillan
Urban League Ferguson Community Empowerment Center
9200 W Florissant Ave, Ferguson, MO 63136**

Moderated by Prof. Kim Norwood, Washington University School of Law
Author, *Ferguson's Fault Lines: The Race Quake That Rocked a Nation* (2016) and
Color Matters: Skin Tone Bias and the Myth of a Post Racial America (2014)



WE NEED TO HEAR FROM YOU NOW!

Have you ever appeared in court in a Civil or Municipal action as a Plaintiff, Defendant, Witness, or Juror? Have you sought or need to seek access to the court system to resolve a dispute?

Are you concerned with racial and ethnic fairness in the Courts? Please come and share your experiences, concerns, and suggestions for improvements.

Now is the time to let your concerns and voices be heard. All are welcome to share their concerns about the justice system with the goal of increasing racial and ethnic fairness.

NO legal advice will be provided. If you have specific questions about your personal legal issues, please contact a licensed attorney. We cannot provide legal advice nor engage in any discussion regarding current cases.

Missouri Juvenile Justice Association Fall 2019 Conference Agenda
October 2019

AGENDA

Wednesday, October 23

- 11 a.m. Registration Opens
12:30 p.m. Opening Remarks
Marty Yust, MJJA Board President
Jim Wallis, Public Education & Development Team Co-Chair
1 - 2:30 p.m. Plenary: *Become Who You Want to Become*
2:30 - 2:45 p.m. Refreshment Break
2:45 - 4:30 p.m. WORKSHOPS:
Case Law Update
Best Practices in Drug Testing
Human Trafficking: Not Just a Big City Problem
Aim 4 Success
Trauma Informed Juvenile Justice—From Brain Science to Building Resilience
5 p.m. 4th Annual 5K for Kids - Run/Walk
Margaritaville 5K Trail - Overpass between buildings C & D

Thursday, October 24

- 7:30 - 8:15 a.m. Breakfast
8:15 - 8:30 a.m. Morning Welcome
8:30 - 10 a.m. Plenary: *The Collapse of Parenting*
10 - 10:15 a.m. Beverage Break
10:15 - 12 p.m. WORKSHOPS:
Best Kept Secret: Mother-Daughter Sexual Abuse
The Opioid Crisis in the US: How Bad Is It?
Girls On the Edge
Results Count 101—Part One
Immigration Law & Policy: The Impact on Child Welfare Proceedings

Missouri Juvenile Justice Association
Promoting Justice for Children, Youth and Families

Choose to Shine

Choose to Shine

AGENDA

Thursday cont., October 24

12 - 1:30 p.m. Lunch

Andrew Jackson Higgins Award

Marty Yust, MJJA Board President

5K For Kids Run/Walk Awards

Jim Wallis and Katie Harrison, Public Education & Development Team Co-chairs

1:30 p.m. - 4:30 p.m. WORKSHOPS

What About Our Boys?

Child Abuse and Neglect

Boys Adrift

Results Count 101—Part Two

Increasing Sustainable Change Through the Common Language of Wellbeing

5:00 p.m. - 6:00 p.m. President's Reception ~ MJJA Raffle

Friday, October 25

7:45 a.m. - 8:30 a.m. Breakfast

8:30 a.m. - 9:30 a.m. Plenary Session - Resiliency 101: From Victim to Survivor

9:30 a.m. - 9:45 a.m. Break - on your own

9:45 a.m. - 11:30 a.m. WORKSHOPS

A Close-Up Look at Female Sex Offenders in Positions of Trust

Family First Prevention Services Act

7 Ways to Motivate Youth with Conduct Disorder & Oppositional Defiant Disorder

Courage2Report

11:30 a.m. Conference Adjourns

Missouri Juvenile Justice Association
Promoting Justice for Children, Youth and Families

Diversity Awareness Partnership Annual Meeting Agenda
November 7, 2019



— Diversity Awareness Partnership's 12th Annual —

Diversity Dinner

November 7, 2019 | 5:30 p.m.

Hyatt Regency St. Louis at the Arch

315 Chestnut Street | St. Louis, MO 63102

www.dapinclusive.org

facebook.com/dapinclusive | [@dapinclusive](https://twitter.com/dapinclusive)

#DAPInclusiveDinner

AGENDA

WELCOME

JADE HARRELL | EMCEE

Emmy Award winning speaker, producer,
radio & television host

DINNER

ENTERTAINMENT

IGNITE THEATRE COMPANY

SILENT AUCTION - CLOSES AT 7:00 PM

KEYNOTE PRESENTATION

DR. ROHINI ANAND | KEYNOTE SPEAKER

SVP Corporate Responsibility and
Global Chief Diversity Officer
Sodexo

SUPPORTING OUR MISSION

MELISSA BRICKEY

Executive Director
Diversity Awareness Partnership

SILENT AUCTION & DONATIONS

You can support DAP by donating tonight!

You can also view and place your bid for all silent auction packages online.

To start, go to:

www.bidpal.net/dapinclusive

2019 National Consortium on Racial and Ethnic Fairness in the Courts Annual Conference

The 31st Annual Conference was held at the beautiful Marriott Miami Biscayne Bay from May 19-22, 2019. The conference theme—"Pursuing the Dream: Continuing the Struggle for Racial and Ethnic Justice in America"—challenged attendees to explore the promise of equality in our Judiciary and share best practices from the many states who are actively working to ensure fairness and equity for court users. Attendees were presented with vital information and important educational opportunities for judges, attorneys, public officials, community organizers and other stakeholders on issues pertaining to access and fair treatment in our justice system.

